

LUCILLE S. HOERNING

IBLA 81-511

Decided August 20, 1981

Appeal from decision of Colorado State Office, Bureau of Land Management, establishing a new rental rate for renewed small tract lease Colorado 023717.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Leases -- Small Tract Act: Appraisals

Where a lessee of a small tract lease contends the rental set by the Bureau of Land Management is too high, the burden is upon her to prove by positive and substantial evidence that the appraisal is in error.

APPEARANCES: Lucille S. Hoerning, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Lucille S. Hoerning has appealed from a decision of the Colorado State Office, Bureau of Land Management (BLM), reappraising her renewed small tract lease Colorado 023717, originally issued pursuant to the Small Tract Act, as amended, 43 U.S.C. § 682(a)-(c) (1970). 1/ The renewal lease was issued October 1, 1978, for a 5-year period with advance rental of \$235 prepaid for the term, but subject to a formal

1/ Small tract lease Colorado 023717 was originally issued October 1, 1958. The Small Tract Act which provided for this lease was repealed by section 702 of the Federal Land Policy and Management Act of 1976 (FLPMA). The renewal lease was issued pursuant to section 302 of FLPMA, 43 U.S.C. § 1732 (1976). It is noted that the renewal lease erroneously described the tract in question as being in sec. 13, rather than sec. 14, T. 2 S., R. 85 W., sixth principal meridian. BLM should rectify this error.

reappraisal and possible increase in the annual rental charge. Appellant contends that the increased rental charge is too high. The tract in question contains 1 acre and is situated in lot 22, sec. 14, T. 2 S., R. 85 W., sixth principal meridian, on the south bank of the Colorado River one-half mile upstream from Burns, Colorado, in a scenic mountain setting.

In an appraisal made to determine the fair market value, the appraiser compared the property with three other tracts in the area. Due to the high demand for recreational property, land values in the vicinity have escalated rapidly in the last few years. On the basis of the value established by comparing this tract with sales of similar properties, the fair market value of the property was established as \$8,000, for which an annual rental of \$490 was determined to be proper.

Appellant has contended that this rental is exorbitant, but has offered no evidence in support of her contention.

[1] We find the rental value of the land set by BLM to reflect a reasonable estimate, based on the appraised value of the tract. Where an appellant contends that the rental is erroneous, the burden is on her to prove by substantial and positive evidence that the appraisal is in error. Opal H. Lofquist, 28 IBLA 111 (1976); Henry O. Woodruff, 24 IBLA 190 (1976); Harold Kyllonen, 16 IBLA 86, 91, 81 I.D. 364, 366 (1974). Appellant has not offered any evidence to the contrary, nor has she shown that the appraisal does not comport with BLM or professional standards.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Gail M. Frazier
Administrative Judge

